

## Employment and Training Administration, Labor

## § 631.18

availability and of applying cost limitations, funds will retain the identity of the program year in which they were initially allotted to the State.

(3) *Allocated to the Governor* refers to funds reserved by the Governor for use in accordance with the provisions of section 302(c)(1) of the Act, exclusive of any such funds which are distributed or allocated to substate grantees pursuant to section 302(c)(1)(E).

(j) The cost limitations described in this section do not apply to any designated substate grantee which served as a concentrated employment program grantee for a rural area under the Comprehensive Employment and Training Act (section 108(d)).

### § 631.15 Federal reporting requirements.

Notwithstanding the requirements in subpart D of part 627 of this chapter, the Governor shall report to the Secretary pursuant to instructions issued by the Secretary for programs and activities funded under this part. Such reports shall include a cost breakdown of all funds made available under this part used by the State Dislocated Worker Unit for administrative expenditures. Reports shall be provided to the Secretary within 45 calendar days after the end of the report period (sections 165(a)(2) and 311(b)(11)).

### § 631.16 Complaints, investigations, and penalties.

The provisions of this section apply in addition to the sanctions provisions in subpart G of part 627 of this chapter.

(a) The Secretary shall investigate a complaint or report received from an aggrieved party or a public official which alleges that a State is not complying with the provisions of the State plan required under section 311(a) of the Act (section 311(e)(1)).

(b) Where the Secretary determines that a State has failed to comply with its State plan, and that other remedies under the Act and part 627 of this chapter are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment to the State for the program year in which the determination is made for

each such violation (section 311(e)(2)(A)).

(c) The Secretary will not impose the penalty provided for under paragraph (b) of this section until all other remedies under the Act and part 627 of this chapter for achieving compliance have been exhausted or are determined to be unavailable or inadequate to achieve State compliance with the terms of the State plan.

(d) The Secretary will make no determination under this section until the affected State has been afforded adequate written notice and an opportunity to request and to receive a hearing before an administrative law judge pursuant to the provisions of subpart H of part 627 of this chapter (section 311(e)(2)(B)).

### § 631.17 Federal monitoring and oversight.

The Secretary shall conduct oversight of State administration of programs under this part, including the administration by each State of the rapid response assistance services provided in such State. The Secretary shall take the appropriate actions to ensure the effectiveness, efficiency and timeliness of services conducted by the State in accordance with § 631.30(b) of this part (section 314(b)(3)).

### § 631.18 Federal by-pass authority.

(a) In the event that a State fails to submit a biennial State plan that is approved under § 631.36 of this part, the Secretary shall make arrangements to use the amount that would be allotted to that State for the delivery in that State of the programs, activities, and services authorized under Title III of the Act and this part.

(b) No determination may be made by the Secretary under this section until the affected State is afforded written notification of the Secretary's intent to exercise by-pass authority and an opportunity to request and to receive a hearing before an administrative law judge pursuant to the provisions of subpart H of part 627 of this chapter.

(c) The Secretary will exercise by-pass authority only until such time as the affected State has an approved plan under the provisions of § 631.36 of this part (section 321(b)).